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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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12 RANDALL E. ELLIS,

No. C 10-2957 TEH (PR)

13 Plaintiff,

14 v.

ORDER DENYING WITHOUT PREJUDICE  
PLAINTIFF'S REQUEST FOR A  
STATUS CONFERENCE REGARDING  
SETTLEMENT AGREEMENT

15 K. BRANDON, et al.,

16 Defendants.  
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21 On July 6, 2010, Plaintiff Randall E. Ellis, an inmate at  
22 Pelican Bay State Prison (PBSP), filed a civil rights complaint  
23 alleging a First Amendment claim against PBSP Captain K. Brandon and  
24 PBSP Officers J. Silveira and C. Countess. On September 27, 2011,  
25 this case was referred to Magistrate Judge Nandor Vadas for a  
26 settlement conference. On April 2, 2012, the parties filed a  
27 stipulation of voluntary dismissal with prejudice. On April 3,  
28 2012, an Order of Voluntary Dismissal with Prejudice was entered by

1 the Court. The Order provides, in relevant part, that the parties:

2 stipulate to a dismissal of this action with prejudice  
3 under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).  
4 . . . The filing of this stipulation automatically  
5 terminates the action.

6 On July 16, 2012, Plaintiff submitted a letter to the  
7 Court stating that, on March 30, 2012, the parties entered into a  
8 settlement agreement that called for its terms to be met within six  
9 months from the date of signing but that, to date, Defendants had  
10 not met the terms of the agreement. Plaintiff requests that the  
11 Court order Defendants to file a final status report before it  
12 dismisses the case with prejudice.

13 Pursuant to the parties' stipulation to dismiss the case  
14 with prejudice, this case has been closed since April 2012. If the  
15 settlement agreement provides that the Court retains jurisdiction  
16 over it, then this Court would have jurisdiction to order a status  
17 report regarding the parties' performance of their mutual  
18 obligations under the agreement. If the settlement agreement does  
19 not provide that the Court retains jurisdiction, the Court would  
20 lack jurisdiction to order such a report. Because the settlement  
21 agreement was not filed with the Court, the Court cannot ascertain  
22 whether it provides that the Court has jurisdiction over it.

23 However, whether the Court retains jurisdiction does not  
24 have to be decided at this time. The March 30, 2012 settlement  
25 agreement allowed Defendants six months in which to perform their  
26 obligations. Six months have not yet elapsed and there is still  
27 time for Defendants to meet the terms of the agreement.

28 Therefore, Plaintiff's request for a status conference is

1 premature and, thus, it is denied without prejudice. If Defendants  
2 have not performed after six months have passed, Plaintiff may  
3 refile his request for a status report, with a copy of the  
4 settlement agreement and a short brief, not more than two pages in  
5 length, explaining why the Court retains jurisdiction over the  
6 agreement.

7  
8 IT IS SO ORDERED.

9  
10 DATED 08/02/2012



THELTON E. HENDERSON  
United States District Judge